

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 66 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.SHAH

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

GOVINDBHAI ISHWARBHAI PATEL

Versus

CHIEF SECRETARY

Appearance:

MR AMIT J SHAH for Petitioners
Mr.S.N.Shelat, Addl.AG with
Mr.A.D.Oza, GOVERNMENT PLEADER for Respondent No. 1
NOTICE SERVED BY DS for Respondent No. 4, 5, 6, 7

CORAM : MR.JUSTICE M.S.SHAH

Date of decision: 20/10/2000

C.A.V.JUDGEMENT

In this petition under Article 226 of the
Constitution, the petitioners have challenged the
Govt.notification dated 31.12.1999 abolishing Gozariya
taluka in Mehsana District.

2. The petitioners are individuals who are residents of villages which earlier formed part of Gojariya taluka in Mehsana District. Petitioner No.1 is the Managing Director of Gozariya Nagrik Sahakari Coop.Bank Ltd, Village Gozariya, petitioner Nos 2 & 3 are the elected members of the Gram Panchayat of Gazariya and petitioner Nos 4, 5 & 7 are sarpanchs of three other gram panchayats.

3. Prior to 1947, 15 villages in question were part of Mehsana or Vijapur talukas in Mehsana District. By notification dated 15.10.1997 the said villages were either placed in Mehsana taluka in Mehsana district or in Mansa taluka in Gandhinagar District. Thereafter, by the notification dated 31.12.1997 Gozariya was constituted as a new taluka. By the impugned notification dated 31.12.1999 7 out of those village have been again placed in Mansa taluka in Gandhinagar District and the remaining 8 villages have been placed in Mehsana taluka in Mehsana district.

4. The learned counsel for the petitioners has raised the following contentions:

(i) The impugned decision has been taken without giving opportunity of being heard to the residents of Gozariya taluka or even the gram panchayats and the villages which formed part of Gozariya taluka before 31.12.1999. Hence, the impugned decision is illegal.

(ii) Mandatory procedure of consultance with district and taluka panchayats was not followed by the Government before issuing impugned notification dated 31.12.1999 as required by the provisions of Section 9 of Gujarat Panchayats Act read with Section 7 of Bombay Land Revenue Code. The impugned decision has been taken solely on the basis of the opinion of the MLA of the area and the MP. Before the notification could be implemented this Court granted interim relief on 5.1.2000 and the Government was also instructed not to make any change.

(iii) The impugned notification is also malafide as the Cabinet Sub Committee known as Review Committee constituted for the purpose of reconstitution of talukas and districts did not recommend for abolition of Gozaria taluka.

(iv) The impugned decision is also malafide because the majority of the villagers in the Gozaria taluka did

not support the sitting MLA and the sitting MP belonging to the ruling party.

(v) That the State Government has arbitrarily taken various steps for implementing the notification dated 21.12.1997 for providing infrastructure for Gozariya taluka. It is submitted that Gozaria town has various business activities and has nationalised banks, cooperative bank, Milk Producing Cooperative Societies, Cooperative Societies for providing loans to agriculturists and railway station connected with big cities in Gujarat. It has a highway between Gandhinagar and Ambaji and has also GIDC estate and various industries. Gozaria has also its APMC.

5. On factual aspect it is submitted by Mr.S.N.Shelat, Id.Additional Advocate General with Mr.A.D.Oza, Id.GP that when the villages adjacent to Gozariyua were asked to give their consent for including their villages in Gozaria taluka vide their letter dated 26.9.97 they refused to join the Gozariya taluka. Gozariya is not a centre place of the villages placed in erstwhile Gozariya Taluka. They are linked with road and railway with Vijapur, Mehsana, Kukarwada and Visnagar. They have their own APMC. Cabinet committee also recommended for abolition of Gozariya taluka. The rationale for creating Gozaria taluka was the reducing load on Mehsana taluka by reducing its area and population. Before bifurcation, the population of Mehsana taluka was more than 4 lacs and it had 126 villages. Even after bifurcation Mehsana taluka had 104 villages with the population of more than 3 lacs whereas Gozariya had only 14 villages with population of only 51,000. Hence, insistence for Gozaria taluka as a separate taluka was not justified. By including some of the villages into Mansa taluka, the area of Mansa taluka will be adequate and addition to Mehsana taluka can be taken care of by creating two talukas, Mehsana city taluka and Mehsana rural Taluka.

6. Having heard the learned counsel for the parties this Court is of the view that as far as the contentions based on the provisions of Gujarat Panchayats Act and Bombay Land Revenue Code and principles of natural justice are concerned, the same are required to be negatived in view of the decision rendered by this Court today in Special Civil Application No.10459/99.

7. On the factual aspect, as per the well settled

legal position, this Court does not sit in appeal over the decision of the Government in such matters of reconstitution/abolition talukas. In view of the facts on record, the recommendations of the Cabinet sub-Committee culminating into the Government decision to abolish Gozaria taluka can not be said to be arbitrary as the purpose of reducing the administrative load on Mehsana Taluka was not served by creation of Gozariya taluka on 31.12.1997. The particulars given by the respondents and reproduced in para 5 hereinabove amply justify the Government decision as rational and reasonable.

8. The petition is dismissed. Rule is discharged. Ad interim relief granted earlier is vacated. There shall be no order as to costs.

20.10.2000 (M.S.SHAH,J)

